

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

CRP.No. 805 of 2006

OP(ELE) 56/2002 of ADDL.DISTRICT COURT-I,MAVELIKKARA

REVN. PETITIONER: 1ST RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA, KAYAMKULAM,
REP. BY ITS CHIEF MANAGER.

BY ADV. SRI.K.P.DANDAPANI

RESPONDENTS: PETITIONER:

SIVARAMAN,
PUTHENPURAYIL, MEENACHERIL,
MUTTOM P.O., HARIPAD.

BY ADV. SRIR.AZAD BABU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 03/10/2007 ALONG WITH C.R.P NOS. 330/2007 AND 359 OF 2007
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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M.N.KRISHNAN, J

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C.R.P. Nos. 805/2006 & 330 & 359 OF 2007

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Dated this the 3rd day of October 2007
ORDER

C.R.P.No.805 of 2005 is preferred against the judgment passed by the Addl.District Court-I, Mavelikkara in O.P.(Ele.)No.56 of 2002. C.R.P.No.330 of 2007 is preferred against the judgment passed by the Addl.District Court-I, Mavelikkara in O.P.(Ele.)149 of 2002 and C.R.P.No.359/2007 is filed against the order of the Addl.District Court, Alappuzha in O.P.(EA)No.627 of 2002. It is submitted by the learned counsel for the petitioner that all these cases had been decided on the basis of a Full Bench decision of this court reported in **Kumba Amma v. KSEB (2000(1) KLT 542 FB).** This matter was taken up before the Apex Court in the decision reported in **KSEB v. Livisha((2007(3) KLT 1SC).** The Apex Court in paragraph 10 of the judgment held that “the situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore,

in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used”. In paragraph 11 the court held that “so far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case”. So, the decision of the Apex Court makes it clear that factual appreciation of each and every matter is necessary to arrive at a reasonable compensation. Since the courts below had only taken the percentage fixed by this court in the decision reported in 2000(1) KLT 542 and in the light of the decision rendered by the Apex Court in 2007(3) KLT 1 the matter requires reconsideration as per the principles enunciated by the Apex Court in the above said decision.

Therefore the orders under challenge are set aside and all the matters are remitted back to the concerned District Courts for fresh consideration, after applying the principles and dictum laid down by the Apex Court in the decision reported in 2007(3)KLT 1. Parties are directed to appear before the concerned District Court on 13.11.2007.

CRPS are disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-